

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Neal Seemann,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 13-07-0462
Parcel No. 8912-29-226-031

On February 6, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Neal Seemann was self-represented. Assistant Black Hawk County Attorney David Mason represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Neal Seemann, owner of property located at 111 Rebecca Lane, Waterloo, Iowa, appeals from the Black Hawk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, frame dwelling built in 1960 with 964 square feet of total living area and full, unfinished basement. The property is also improved with a 572 square-foot detached garage, 334 square-foot of roof overhang, and a 56 square-foot, open porch. It is listed as average quality grade (4-05) and is in normal condition. The site is 0.400-acres.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$75,050, representing \$9000 in land value and \$66,050 in dwelling value.

Seemann protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). His petition to the Board of Review sought an assessment of \$30,000. The Board of Review denied the petition.

Seemann then filed his appeal with this Board and claimed the same ground. He now asserts the actual value of the property is \$30,000, allocated \$5000 to land value and \$25,000 to dwelling value. We note that Seemann appears to also seek to add additional grounds to his appeal before this Board, specifically claims that the property is inequitably assessed under section 441.37(1)(a)(1) and that the property suffered a downward change in value under sections 441.35(2) and 441.37(1)(b). (Exhibit 1). However, because Seemann did not assert those claims to the Board of Review, they are not properly before this Board and we do not consider these new claims. § 441.37A(1)(b) (stating that “no new grounds in addition to those set out in the protest to the local board of review . . . can be pleaded.”).

Neal Seemann testified the subject property is over-assessed and the listing includes a deck in error. The subject property was purchased from the Estate of Margarite N. Bowers through public auction for \$15,000 in March 2012. Seemann provided copies of the closing statement and court officer’s deed to substantiate this information. (Exhibits 3 & 4). In Seemann’s opinion, the transaction was between a willing buyer and willing seller at an auction open to the public and represents the property’s fair market value, although he conceded he got a “good deal.” Based on this, he believes the assessment should be \$30,000.

Seemann also submitted assessment and tax information for two Waterloo properties located at 2071 and 2057 Independence Avenue (Exhibits 6 & 7). These properties had lower assessments than the subject property. The printouts for these properties lacked detailed information about the properties and a comparison of assessed values alone is insufficient to show over-assessment. We give this evidence no weight.

Seemann offered a Comparative Market Analysis (CMA) completed by realtor William Sires of Peachtree Realtors in Waterloo when the property was purchased in 2012. (Exhibits 2A-2H). Sires based his analysis on three similar properties sales from 2011 and one pending sale in Waterloo. Sale prices ranged from \$25,000 to \$33,000. Sires made adjustments for above-grade area, exterior, acreage, repairs/conditions, garage stalls, cooling, and year built. No further information about the sales transactions or the properties was provided. Therefore, we cannot confirm whether the sales would be considered normal, arm's length transactions and make a determination if the properties are sufficiently comparable.

The resulting adjusted sale prices ranged from \$7000 to \$18,000. Sires made a significant \$12,000 adjustment uniformly to every comparable property for repairs/condition. He estimated a market value of \$15,372 for the subject property as of January 9, 2012.

Sires estimated the cost of updating electrical, plumbing repairs, flooring, exterior repairs to house, windows and garage, mold removal, basement wall repairs, and land fill. He estimated the cost of repairs at \$13,750. Although Sires indicates he provided photographs of the needed repairs and damage along with the CMA, those photographs were not submitted to this Board for review and thus we cannot verify the need for repairs or the damage to the subject. In the analysis, Sires explained he used the average square-foot, unadjusted sales-price of \$30.21 and multiplied by the 964 square feet of the subject home to calculate a \$29,122 value. He then subtracted his estimated repairs of \$13,750 to arrive at an estimated value of \$15,372. (Exhibit 2H). Because this is not a recognized and accepted method of estimating market value, we give this information no consideration.

Acting Assessor T.J. Koenigsfeld testified the properties identified as comparable to the subject property are located in an inferior downtown area. One of the three sales used, located at 110 Rebecca, was a foreclosure sale. A foreclosure sale is not considered a normal, arm's length transaction.

§ 441.21(1)(b). Without adjustment, the sale price may not reflect fair market value. He also reported the garage at the 1450 Newell property had been removed since the analysis was completed.

Koenigsfeld also addressed Seemann's claim that his assessment erroneously included a deck. He showed this part of the property sketch were roof overhangs, not decks. Additionally, no cost associated with decks was on the property listing, only the costs of the roof overhangs.

Accordingly, we find Seemann failed to meet his burden to prove the subject property was over-assessed and the property's fair market value.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, the "sales price of the subject property in a normal sales transaction . . . does not

conclusively establish [market] value.” *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Conversely, sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales. § 441.21(1)(b). If sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

As evidence of his property’s value, Seemann relies on his March 2012 purchase for \$15,000 via public auction from the Margarite N. Bowers Estate. The Iowa Code contains a non-exhaustive list of sales transactions that are considered abnormal. § 441.21(1)(b). Although estate sales are not specifically listed as abnormal, we question whether Seeman’s purchase of the property through an estate sale is an accurate reflection of its market value. Even if Seeman’s purchase is considered “normal,” the subject’s sales price would not *conclusively* establish its market value under Iowa law. *Riley*, 549 N.W.2d at 290. For these reasons, we cannot conclude that Seeman’s purchase price establishes the property’s correct value.

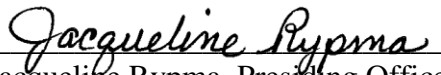
Seemann also submitted a Comparative Market Analysis that identified sales of similar properties and estimated the subject’s market value at \$15,372. However, Koenigsfeld testified one sale was abnormal. The remaining sales received significant adjustments, which were unexplained. Sires also estimated repair costs to the subject, which were unsubstantiated. Ultimately, Sires used an

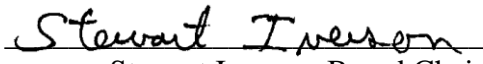
averaging method of the unadjusted sale prices to arrive at his opinion of value. Because this is not a recognized method of valuing property, we gave it no weight.

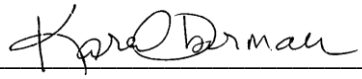
Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Seemann's claim of over-assessment.

The Appeal Board orders the subject property's assessment of \$75,050, as determined by the Black Hawk County Board of Review is affirmed, as of January 1, 2013.

Dated this 6th day of March, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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